

Exhibit 1

1 UNI TED STATES DI STRI CT COURT
2 EASTERN DI STRI CT OF NEW YORK

3 - - - - - X
4 UNI TED STATES OF AMERI CA, : 17-CR-00154
5 v. : U. S. Courthouse
6 TARA LENI CH, : Brookl yn, New York
7 Defendant. : February 2, 2018
8 : 12: 15 o' cl ock p. m.
9 - - - - - X

10 TRANSCRIPT OF SENTENCE
11 BEFORE THE HONORABLE WILLIAM F. KUNTZ, II
12 UNI TED STATES DI STRI CT JUDGE

13 APPEARANCES:

14 For the Government: RICHARD P. DONOGHUE
15 Uni ted States Attorney
16 By: ROBERT POLEMENI
17 MARI A CRUZ MELENDEZ
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21 For the Defendant: MORRI S FODEMAN, ESQ.
22 GARY FARRELL, ESQ.

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Proceedi ngs recorded by mechani cal stenography, transcript
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1 (Case called; both sides ready.)

2 MR. POLEMENI: Good afternoon, your Honor Robert
3 Pol emeni for the United States.

4 THE COURT: Good afternoon.

5 MS. CRUZ MELENDEZ: Good afternoon, your Honor.
6 Maria Cruz Mel endez for the government.

7 MS. McKEOWN: Kristen McKeown, probati on.

8 THE COURT: Good afternoon.

9 MR. FODEMAN: Moe Fodeman from Wi lson Sonsini
10 Goodrich & Rosati for the defendant, Tara Leni ch, who i s
11 present before the court.

12 MR. FARRELL: Gary Farrel l .

13 THE COURT: Good afternoon. Please be seated.
14 Ladies and gentl emen of the audience, please be seated as
15 wel l .

16 Are there any other counsel who wi sh to note their
17 appearances here today? Hearing none.

18 Good afternoon, Ms. Leni ch.

19 THE DEFENDANT: Good afternoon your Honor.

20 THE COURT: Are you ready to proceed?

21 THE DEFENDANT: Yes.

22 THE COURT: Ms. Leni ch, you have had an opportuni ty
23 to review careful ly your presentence investigation report
24 whi ch was filed on August 29 of 2017, have you not?

25 THE DEFENDANT: Yes, your Honor.

1 THE COURT: And have you had an opportunity to
2 discuss that with your counsel?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: And have you also read the addendum to
5 that report, which was filed on October 30 of 2017, and the
6 second addendum to that report, which includes a victim impact
7 statement, which was filed on November 30 of 2017?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: And have you had an opportunity to
10 discuss that with your counsel and have you done so?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Thank you.

13 Have you had an opportunity to review and have you,
14 in fact, reviewed the following items: Your defense counsel's
15 sentencing memorandum which was filed on November 28 of 2017
16 and all the attachments thereto?

17 THE DEFENDANT: Yes.

18 THE COURT: And defense counsel's sentencing
19 memorandum update which was filed on January 26 of 2018 and
20 the attachments thereto?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: And the government sentencing memorandum
23 which was filed on January 30 of 2018.

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: And in addition to those materials, my

1 files reflect, among other documents, the indictment in this
2 action, which was filed on March 23 of 2017 and the plea
3 penalty sheet which was filed on April 3 of 2017 and I note
4 for the record that I have received and reviewed the letters
5 from your counsel the other night, which also added additional
6 authorities. So I take it you have seen that. I just want
7 your counsel to know that I have seen that and included in my
8 reference to my own decision in the Kacamakovic case.

9 MR. FODEMAN: Thank you, your Honor.

10 THE COURT: So I have received and reviewed
11 everything and I have the world's best law clerks.

12 MR. FODEMAN: Thank you for that well.

13 THE COURT: To both sides, are there any other
14 documents that either counsel would like to mention
15 specifically at this time?

16 MR. POLEMENI: Not from the government, your Honor.

17 MS. McKEOWN: Your Honor, there was a third addendum
18 to the presentence report that was disclosed last evening.

19 THE COURT: Let me ask you once again to identify
20 yourself for the court reporter.

21 MS. McKEON: Kristen McKeown, probation.

22 There was a third addendum that was disclosed
23 yesterday evening. I can have a copy for the court.

24 THE COURT: I believe we have seen it. Why don't
25 you hand it up. Hand it to the other side as well.

1 MR. FODEMAN: We have seen it, judge.

2 THE COURT: Give it to my law clerk to hand it up.

3 MR. FODEMAN: Judge, this is the one related to the
4 defendant's --

5 THE COURT: Yes. It's the financials. I have seen
6 that.

7 MR. FODEMAN: Thank you, your Honor.

8 THE COURT: As I said, I have the world's best law
9 clerks.

10 THE COURT: Anything else from either side that you
11 want to mention specifically now?

12 MR. FODEMAN: No, your Honor.

13 MR. POLEMENI: No, your Honor.

14 THE COURT: Ms. Lenich, do you feel prepared to go
15 forward with sentencing today?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: Ms. Lenich, you have the right, as you
18 know, to address this escort before your sentence is imposed
19 and I will give you the opportunity to do so in just a few
20 minutes and you should feel free to say anything you think
21 appropriate at that time before I finalize my judgment in this
22 case. Do you understand?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: Are you satisfied with your counsel's
25 representation?

1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: Do you believe that you have received
3 the effective assistance of counsel ?

4 THE DEFENDANT: Yes.

5 THE COURT: If you do not believe that you have
6 received the effective assistance of counsel , you may raise a
7 claim of ineffective assistance of counsel at an appropriate
8 time and in an appropriate forum.

9 Do you understand?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: Now, the United States Code sets the
12 following sentencing parameters for illegal interceptions of
13 communications: A statutory maximum imprisonment term of five
14 years per count, where multiple terms may run concurrently or
15 consecutively; a statutory maximum supervised release term of
16 three years per count where multiple terms run concurrently; a
17 fine of up to \$250,000 per count and a mandatory special
18 assessment of \$100 per count, which amounts to \$200 in this
19 case.

20 If probation is imposed, it shall be for a term of
21 not less than one, nor more than five years per count, with
22 multiple terms to run concurrently. The court must also
23 consider the sentencing parameters set by the United States
24 Sentencing Guidelines. The base offense level for illegal
25 interception of communications in violation of 18 United

1 States Code Section 2511 is nine, pursuant to Guidelines
2 Section 2H3.1(a)(1).

3 Because the defendant abused a position of trust, or
4 used a special skill, in a manner that significantly
5 facilitated the commission for concealment of the offense, the
6 offense level is increased by two levels pursuant to
7 Guidelines Section 3B1.3. Accordingly, the total adjusted
8 offense level for each count is eleven. Here, because there
9 are two distinct offenses or units, that have the same offense
10 level, the total offense level for the two units combined is
11 determined by taking the adjusted offense level of the highest
12 unit, which is eleven, and increasing it by two points
13 resulting in a combined adjusted total offense level of 13.

14 Because the defendant has clearly demonstrated her
15 acceptance of responsibility for the offense by pleading
16 guilty, the offense level is decreased by two levels pursuant
17 to Guideline Section 3E1.1(a).

18 In sum, the defendant's total offense level is
19 eleven which, with a criminal history score of zero and a
20 criminal history category of one, yields a guideline
21 imprisonment range of eight months to fourteen months.

22 As an alternative pursuant to Guideline Section
23 5C1.1(c)(2), the court may impose a term of imprisonment of
24 one month, followed by a term of supervised release, with a
25 special condition requiring at least seven months of community

1 confinement or home detention. As a further alternative
2 pursuant to Guidelines Section 5C1.1(c)(3), the court may
3 impose a sentence of probation that includes a condition, or
4 combination of conditions, that substitutes intermittent
5 confinement, community confinement or home detention or
6 imprisonment according to the schedule in Guidelines Section
7 5C1.1(c).

8 In addition, the guidelines suggest a term of
9 supervised release of between one and three years per count, a
10 fine of between 4,000 and \$40,000, payment of the costs of
11 prosecution and that the defendant is eligible for probation.

12 Now, counsel, am I missing anything pertinent to
13 today's proceeding and do you have any objections to the
14 calculation of the guidelines parameters?

15 MR. FODEMAN: No, your Honor.

16 MR. POLEMENI: No, your Honor.

17 THE COURT: Are there any other objections either
18 counsel wishes to raise at this time?

19 MR. FODEMAN: No, your Honor.

20 MR. POLEMENI: No, your Honor.

21 THE COURT: That being the case, I will now turn it
22 over to defense counsel. You may remain seated and use the
23 microphone.

24 MR. FODEMAN: Thank you, your Honor.

25 Again, good afternoon, your Honor.

1 THE COURT: Good afternoon.

2 MR. FODEMAN: I do want to start by thanking you for
3 giving me the opportunity to speak on Tara's behalf this
4 afternoon and for your consideration here today.

5 Your Honor, as you know, I've represented Tara since
6 her arrest more than a year ago in this case and I can tell
7 you it's been a privilege and honor to do so and I only wish
8 that she wasn't seated here about to be sentenced.

9 I know your Honor has carefully reviewed all of the
10 materials that we've provided. I know they have been
11 voluminous and thank you and your staff for assisting in that
12 effort. I have no intention of repeating all the arguments
13 that we have raised. That said, given the obvious tremendous
14 stake for Tara and her family with today's decision I hope
15 your Honor will indulge me as I elaborate on several of those
16 points and respond to some of the arguments that have been
17 advanced by the government in support of their extraordinary
18 above guidelines incarcerationary sentence that they seek.

19 THE COURT: I want to make it clear you can take as
20 long as you want. I'm going to give the government as long as
21 they want. I'm going to give you a right to respond. I'm
22 going as to give them a right to reply. So you can go through
23 the entirety of your argument. They can respond to the
24 entirety of your argument. You can break it up and go back
25 and forth. No artificial constraints. The day is yours.

1 MR. FODEMAN: That is much appreciated.

2 THE COURT: No worries.

3 MR. FODEMAN: Thank you, your Honor.

4 Judge last week as I thought about what I would say
5 here today, I happened to remember this article that I had
6 read a few years back. And it was about an exercise involving
7 patients battling cancer. And in the exercise psychologists
8 showed the patient a piece of paper and on each piece of paper
9 was a small black dot and the patient was asked to describe
10 what you see. And most patients understandably said they saw
11 a small black dot. And then the psychologist would explain
12 that there is so much more than the black dot. There was this
13 entire page of white, unblended by any dot.

14 Now, of course, the point of the exercise was to
15 make the patients realize while they certainly were
16 appropriately focused on their disease, the cancer was not all
17 that they were. They had so much more in their lives than
18 just the black dot. And as I thought about today's sentencing
19 I just could not get this article out of my head.

20 Your Honor has before him dozens and dozens of
21 letters that you have received from people who know Tara, from
22 people who love her, from people who respect her. In fact,
23 many of those folks are here in the audience today to show
24 their support, former colleagues from the DA's Office, family,
25 friends, people from the NYPD. They are all in court today to

1 continue to show her support. And, Judge Kuntz, those letters,
2 that folks and others wrote, they were submitted to show you
3 that Tara Lenich is more than the black dot of her position.
4 She is a woman that is so much more. She has been truly
5 giving of herself to others and in times of need in ways that
6 candidly very few among us can claim. Whether it's initiating
7 and organizing fund-raisers for sick friends and colleagues or
8 advancing causes that support veterans or volunteering her
9 time and energy to her church, or caring for the elderly,
10 dedicating her entire professional life to public service and
11 the countless other ways that Tara has helped others, not just
12 for glory, not for accolades, not for awards but only because
13 she believed it was the right thing to do and it's because of
14 who she is as a person. Simply put, Tara is a good, generous,
15 compassionate person, who somehow lost her way and made a
16 series of terrible choices that regardless of your Honor's
17 sentence here today she will live with for the rest of her
18 life.

19 Now, I know your Honor has read every single one of
20 those letters. I know your staff has as well. And I truly
21 hope this they give you a fuller picture of the woman about
22 whom you are to impose sentence. I submit, judge, that
23 there's a recurring theme that runs through all of those
24 letters. Taken together, judge, they paint a vivid picture of
25 a woman who is incredibly humble and loyal and giving and

1 sensitive and caring and kind and dedicated and thoughtful and
2 hard working.

3 And I can share with you, judge, that the Tara that
4 you read about described in those letters, that's the same
5 Tara that I came to know and respect over the past year
6 working with her. She is respectful like no other client.
7 She is hard working. She is kind and thoughtful. She is
8 incredibly close with her parents, who are in court today, and
9 her family and her friends who have stuck by her. She is
10 thankful for their support and devastated, truly devastated by
11 the pain she's caused them. She is embarrassed by her conduct
12 and perhaps, judge, I can attest most importantly she is so
13 very, very sorry for her actions and any harm that they have
14 caused.

15 I think, judge, it bears repeating that Tara is 42
16 years old and she of course has no criminal record. Indeed,
17 she's never been in any trouble before in her life. She's, as
18 you know, dedicated her life to serving the public, working
19 tirelessly to make our streets and our community safer for all
20 of us. She was, as I think I recall one colleague observed
21 that she was usually the first to arrive in the morning at
22 DA's office and the last to leave and her work one noted at
23 the DA's Office was unparalleled.

24 Notwithstanding her arrest and the loss of the
25 career she's loved so much, to her credit Tara continues to

1 volunteer her time to good honorable causes including the
2 United War Veterans Council and Christ Church in Tarrytown.
3 Present in the audience today I think is Angelia Coyne, the
4 head of the United War Veterans Affairs who, as you know,
5 submitted a letter of support praising Tara for the work she's
6 done for that organization and Tara's importance to their
7 mission.

8 Also present in the audience are representatives of
9 the Focus Forward Program, a program I know your Honor is
10 familiar with. As you read in our submission, but bears
11 repeating, Tara was selected to participate in the Focus
12 Forward Program by the court's pretrial services here in the
13 Eastern District of New York. In the twelve-week course, as
14 you know, is dedicated to providing educational programming to
15 federal pretrial defendants and they participate and graduate
16 through the pretrial services. Tara was, as you read, a true
17 leader in that class, judge, a mentor to the other
18 participants and her stories and her goals were inspiring.
19 Not only should Tara's success with the pretrial Focus Forward
20 Program speak to virtually nonexistent, I mean that,
21 nonexistent likelihood of recidivism, which I'll talk about a
22 little more in a bit, it should give the court comfort that to
23 the extent the offense here involves a component of the
24 probation or house arrest there is little risk of
25 noncompliance, really none. We hope it also gives the court

1 insight to the type of person Tara truly is and will continue
2 to be going forward in helping her people.

3 Now, it's certainly true, judge, I'll be the first
4 to acknowledge, many people who get sentenced in this court,
5 particularly nonviolent workplace cases like this, are folks
6 that have no criminal history, that are fully invested in
7 their communities and do things otherwise that positively
8 touch people's lives.

9 But I submit to you, judge, that Tara Lenich is
10 qualitatively different than most defendants in this regard.
11 After all how many among us, how many of us can say that upon
12 hearing that a colleague at work is ill organizes a
13 fund-raiser attended by more than 500 people as Mr. Vista that
14 related in his letter. How many people here can say that they
15 sent care packages to members of our armed forces, not just to
16 ones they know and are friends with but to total strangers who
17 are in harm's way overseas. How many of us can say that? How
18 many of us can say that they have spent their entire adult
19 life serving others, serving the public, making a true
20 difference in the lives of others, truly saving lives and Tara
21 Lenich's work and the work of colleagues in the Kings County
22 DAs office does that. All done judge not for glory, not for
23 personal benefit, not to better her position for some
24 sentencing some day but only because of the person she is and
25 always has been.

1 Respectfully, judge, I submit that that should be
2 worth something. The extraordinary life that Tara has
3 otherwise lived should count for something. It should be
4 worth a second chance, not just because I say so, her lawyer,
5 because obviously the 3553(a) factors require that a
6 sentencing court take into account a person's history and
7 characteristics in meting out a just sentence. It should
8 count. It should matter and it should speak volumes in this
9 proceeding.

10 Now, let me just spend a few minutes talking about
11 the circumstances of Tara's crime. As you know, judge, Tara
12 pled guilty to two counts of illegal wiretapping over the
13 course of more than a year in one instance and several months
14 in the other. Tara illegally listened in on private telephone
15 conversations and reviewed text communications of two people
16 she knew very well. She did this, as you know, by forging
17 judges' signatures on wiretaps and search warrant orders and,
18 if that weren't bad enough, Tara issued grand jury subpoenas
19 to obtain phone records from phone companies. Obviously she
20 was not allowed to do that. She used her position, and
21 several of her unknowing colleagues, to carry out this illegal
22 activity, a violation of her victims' sacred right to privacy.

23 As the government correctly points out, this conduct
24 was not a fleeting instance of digression, but occurred time
25 and time over and over again over the course of many, many

1 months. As a former state prosecutor and federal prosecutor,
2 as a lawyer, as a citizen, I can tell you without hesitation
3 what I think we can all agree on and that is that this conduct
4 is unacceptable, to say the least, obviously, a total
5 violation of a tremendous trust that the Kings County District
6 Attorneys Office and the people of the city placed in Tara and
7 it was a complete violation of the oath we as lawyers,
8 particularly prosecutors, take to uphold the law and not
9 violate it.

10 The conduct at issue here, judge, is the anti thesis
11 of everything, the anti thesis of everything that Tara worked
12 for and stands for. And while we should take some solace,
13 judge, I hope from the fact that Tara never disseminated these
14 recordings, never shared them with third parties, never used
15 them to extort people or get some pecuniary gain from the
16 recordings or put them on the internet or anything like that
17 or that any of her conduct impacted any actual prosecutions in
18 any way or pending criminal investigations. While we may take
19 some solace in at least that, it does not make her decision to
20 violate the law less blameworthy. As she will readily admit,
21 Tara, of all people, knew better.

22 Now, nothing that I am about to say about these
23 crimes is intended to minimize the seriousness of these
24 offenses. But I think a few words, putting these crimes in
25 context, to attempt to give it some perspective would help.

1 First, because these crimes are so aberrant, so contrary to
2 everything that Tara's life had been about, because these
3 crimes seem to make absolutely no sense, and Tara had to know
4 that she was risking everything by committing them and was
5 bound to be caught because Tara herself to this day struggles
6 to articulate what led her to engage in this conduct.

7 We have, as you know, retained a forensic
8 psychiatrist, Dr. Michael Welner, who I would note is someone
9 that the government has retained in the past. And we retained
10 Dr. Welner to help us, help you, understand what may have led
11 an otherwise respected, successful, dedicated prosecutor to do
12 what she did here. We submitted that report, a lengthily
13 report. I know you reviewed it under seal for your
14 consideration. While the government in its submission
15 completely ignored Dr. Welner's report -- I don't think it's
16 even mentioned in their submission -- I know your Honor has
17 read it and I hope it gave you some context as to what may
18 have led Tara to the place she found herself descending into.

19 Tara's crimes, as serious as they were, cannot be
20 viewed in a vacuum. Without going into too much detail about
21 what Dr. Welner's sealed report said, suffice it to say, that
22 he paints a vivid picture of extreme emotional distress that
23 Tara Lenich found herself in, unbearable pressure, personal
24 and professional, that she found herself under, in part,
25 because of choices that she made, but also in part because of

1 people and circumstances that she could not control. We think
2 this backdrop is important as your Honor considers the
3 totality of the nature and circumstances of Tara's crime and
4 we hope you will, we know you will.

5 Second, with regard to the circumstances of this
6 offense, and as the government properly acknowledges, Tara's
7 effort to right her wrong have been substantial and,
8 respectfully, from my perspective, quite extraordinary. And
9 that, too, should count for something. Not only did Tara
10 agree to take full responsibility quickly, in fact,
11 immediately upon being confronted, she pled guilty at the very
12 first court appearance before your Honor without taking any
13 discovery, obviously, without filing any motions. Tara had
14 made tremendous efforts to cooperate fully with the DA's
15 Office, with the NYPD, with the U.S. Attorneys Office, the
16 FBI. She met with the U.S. Attorneys Office for hours and
17 upon hours in their offices, outlined her crimes, cleared
18 people the government suspected may have been complicit in her
19 crimes or assisted in the offenses, admitted to improper
20 conduct that the government was not yet aware of, voluntarily
21 returned recordings that she still had in her possession that
22 the government didn't recover when they executed the search
23 warrant at her home, handed over electronic devices for their
24 review.

25 In fact, judge, I mentioned a moment ago that she

1 told them about offenses, about conduct that they didn't even
2 know about yet. Those grand jury subpoenas, for example, that
3 was something that Tara Lenich voluntarily told them. Because
4 in an effort to come clean and be cooperative she told them
5 everything she did, that this, judge, was without any
6 protection whatsoever, no proffer agreement, no cooperation
7 agreement, no coverage, no promises.

8 As your Honor knows having presided in this
9 courthouse for as long as you have, that is extraordinary.
10 Again, that doesn't excuse Tara's actions. I don't want you
11 to take what I am saying as that, but her extraordinary and
12 immediate acknowledgment of her wrongdoing, her efforts to
13 fully, fully accept responsibility and spare the government
14 and this court the use of additional resources and perhaps
15 most importantly, judge, her efforts to mitigate any harm that
16 she caused, to the extent it would be mitigated, should be
17 another factor that weighs in favor of leniency here. It
18 should matter. Of course she's getting the two points, but
19 every defendant that pleads get two points. This is more and
20 it should matter.

21 Another factor that the court must consider, and one
22 which the parties have spent some time writing about as
23 recently as yesterday, is the need to avoid unwarranted
24 sentencing disparities. And of course it makes sense that a
25 court would want to know what other judges have done in

1 similar cases so there's some level of consistency. While I
2 will be the first to acknowledge that no two cases are exactly
3 the same, and Tara's case in many ways is unique, the fact of
4 the matter is that in the fourteen months since Tara's federal
5 arrest, and the two months since the government has had our
6 submissions, the government has not identified a single case,
7 not one, where any judge, any judge, has imposed a sentence
8 for the violations, or any remotely analogous violations, that
9 it seeks here, let alone one where the court sentences the
10 defendant to an above-guideline sentence as the government
11 urges here, not one, not in this courthouse, judge, not in any
12 state courthouse, not anywhere in the entire United States
13 that they have been able to find such a case. This would be a
14 first.

15 Indeed, as we pointed out in our letter, the closest
16 they come up with is a public official in New Jersey who
17 videotaped numerous co-workers and was ultimately sentenced to
18 twenty-one months in prison, less than the government sought
19 here, despite a higher applicable guideline range. What they
20 didn't mention of course -- they mentioned that he did go to
21 trial. What they didn't mention was that he insisted he was
22 innocent at that trial, incredibly claiming that he didn't
23 realize that what he was doing was even wrong. But most
24 importantly, it turns out that when you actually read the
25 sentencing minutes, which I think we have provided your Honor,

1 when you actually read those minutes, you'll learn that this
2 same justice department offered that same defendant a sentence
3 of probation, if he would just accept a modicum of
4 responsibility and not go to trial.

5 So, somehow for that defendant, that was sufficient,
6 and I submit for a multitude of reasons it is more than
7 sufficient here if it was sufficient there. Of course, we
8 provided the court with analogous cases. You mentioned your
9 own case, which no two cases are exactly the same. We think
10 there's something to be learned from these other cases.
11 We've provided you with statistics. The undeniable fact is
12 that the vast majority, 85 percent, I think was the number,
13 nationwide of defendants convicted of this crime here, under
14 these guidelines, even cases involving significant violations
15 of public trust, even those involving defendants who pressed
16 on to trial and never accepted any responsibility, the vast
17 majority, 85 percent of all of those cases, resulted in a
18 sentence of probation. Yet, the government seeks an
19 above-guideline sentence here of two years.

20 Finally, judge, the last factor or factors that I
21 would like to address today is the need for general and
22 specific deterrence and the need for rehabilitation, education
23 and medical treatment. First, can anyone honestly say that
24 Tara Lenich will be better rehabilitated being warehoused in a
25 dangerous federal prison filled with the associates of some of

1 the same people she prosecuted, or will a sentence that allows
2 her to continue her mental health treatment she, to her
3 credit, has sought out and fully engaged with since her arrest
4 and allows her to continue the classes she's taking to get her
5 business certificate so that she can one day reinvent herself
6 professionally, is that a more effective way of addressing the
7 important objective of sentencing, of rehabilitation or should
8 we warehouse her in federal prison?

9 Finally, with respect to the deterrence, I will say
10 this, no matter what your Honor's sentence here is today,
11 whether that sentence is two years or whether it's one year or
12 whether it's house arrest or whether it's probation with
13 community service or time already served, I can assure you
14 this, judge, Tara Lenich will never be the poster child for
15 having gotten away with something. Because of her conduct and
16 because of her choices, she has already been branded a
17 convicted felon for life. She has deservedly lost her career
18 as an Assistant District Attorney, a position that was so much
19 more than a job to her. It was her true calling. She
20 dedicated her life to serving the people of Brooklyn and the
21 city, keeping us all safe and because of her decision she's
22 lost that forever. She has forfeited her law licenses and
23 been disbarred in two states, suffered embarrassment and shame
24 of a highly publicized arrest and prosecution. You see the
25 members of the press here. Finding her image on the cover of

1 ci ty tabloids and media outlets across the country, if not the
2 world.

3 Her savings, as you've learned yesterday, have been
4 decimated. Aside from a part interest in a mortgaged
5 apartment, she has no savings beyond a retirement account, no
6 assets and significant, ever increasing debt. In fact, most
7 importantly, Tara has had to live with the fact, judge, that
8 her decisions have caused her parents and her other family
9 members and friends, who have done nothing wrong, so much
10 heartache, something which I know has weighed on Tara and will
11 weigh heavily on Tara every single day.

12 Does anyone truly think all that, honestly, does
13 anyone truly think that with all that, that we as a society
14 run the risk that public servants everywhere will start
15 wiretapping their colleagues because they find out that this
16 is all that happens to you when you get caught? It's almost
17 laughable to think that. Or that they will do anything when
18 they hear that what has already happened to Tara and what she
19 faces going forward, no matter what her sentence is. And as a
20 deterrent, does anyone seriously think, and I would be curious
21 to hear, and the government writes this in their submission,
22 but does anyone think that there's a real risk that Tara will
23 return to some life of crime or will commit this crime or any
24 other crime in the future? Really? Does anyone really think
25 that's likely? And that a two year prison sentence that is

1 urged here is the only way of protecting all of us from Tara's
2 future crimes? That it's needed, it's necessary, it's
3 required, otherwise we run the risk that woman will victimize
4 us all come tomorrow or the next day or the next day.

5 Putting aside that she, obviously, obviously will
6 never be in a position to commit this particular crime again
7 because she not going to be near whatapping equipment ever
8 again and the fact that she continues to receive the mental
9 health treatment she probably needed, she definitely needed
10 when it was going on, to address those issues that led her to
11 committing the crime, putting all that aside, does someone who
12 leads an otherwise law-abiding life of 41 years marked by good
13 deeds and public service, does someone who accepts
14 responsibility immediately and in such an extraordinary way
15 and is so profoundly sorry, as you're about to hear, for her
16 actions, not just in words but in deeds, who has a perfect
17 records of compliance with pretrial services and is leading
18 Focus Forward classes and has this tremendous network of
19 family and friends who are here to support her, does that
20 sound like the kind of person who is a candidate to go out and
21 commit more crimes, honestly? Of course not. And
22 respectfully, respectfully a prison sentence is not needed to
23 prevent it or protect any of us from Tara Lenich in the
24 future.

25 Judge, you have been incredibly patient with me and

1 I appreciate it and so does Tara and her family. I would just
2 leave you with this, judge. While Tara's crimes are
3 undoubtedly very serious, and worthy of serious punishment,
4 she has already paid and will continue to pay a heavy, heavy
5 price for them. To her credit, judge, though, Tara is not
6 lost. She is not lost. She remains dedicated to her parents,
7 to her friends who stuck by her, her pet, her church, her
8 volunteer work, her veterans, her studies, her church. She
9 remains committed to finding a path forward. Fortunately, she
10 has this wonderful, loving family and an extended support
11 network that will help her do it.

12 How much is enough? How much is really, really
13 needed? Is it necessary? Is a far away -- and it will be
14 far away -- federal prison the only way to address the
15 purposes of sentencing here? Or is the sentence that we
16 propose, which I submit is by no means easy, a sentence of
17 house arrest, a sentence that is fully contemplated by the
18 guidelines, as your Honor noted at the beginning of today's
19 proceedings, sufficient, safer and even better under all the
20 circumstances?

21 I know Tara would like to address the court, judge.
22 Unless you have any questions for me, I'll proceed in any way
23 you like.

24 THE COURT: We can either hear from the prosecution
25 now or, Ms. Lenich, if you wish to speak now, you may. You

1 can also speak later. It's up to you.

2 THE DEFENDANT: Okay. I'll speak now if that's
3 okay.

4 THE COURT: Sure.

5 THE DEFENDANT: Thank you.

6 Your Honor, I have a hard time even believing that I
7 am in your courtroom today as a criminal defendant and it's
8 because of terrible decisions that I alone made and am
9 responsible for. Since my arrest I have had to take a long
10 look at how I treated this situation and ended up in your
11 courtroom. Fifteen months ago I was an assistant DA in
12 Brooklyn and that was more than just a job to me. It really
13 was my life. I dedicated myself to making the streets of
14 Brooklyn safer from gun traffickers, from violent gangs and
15 from drug dealers.

16 In 2015, when this all started, I was in a
17 completely destructive, unhealthy emotional professional and
18 personal relationship with someone who I was working on the
19 biggest case of my career with. When that relationship went
20 from bad to completely disastrous, it had a negative effect on
21 that big case, I truly imploded. I created the situation and
22 I felt like I couldn't talk to anyone and I dug myself deeper
23 and deeper into the hole. I felt like everything around me
24 was closing in and I was suffocating and I couldn't breathe.
25 I felt isolated and completely alone and tried to manage an

1 ever increasing workload and what I perceived as a growing
2 threat to the biggest case. I felt like everything around me
3 was crumbling and I didn't know what to do about it.
4 Obviously, now I know I could have and I should have sought
5 help from a variety of sources and instead I made the worst
6 decision possible and disrespected my position of trust.

7 I humiliated the office that I worked so hard for
8 and embarrassed family and friends. I listened in to calls
9 that I know right to hear. I knew what I was doing was wrong.
10 I don't know how listening to those calls would help take me
11 out of the place that I was in. In some irrational way I was
12 trying to maintain control over a truly out of control
13 situation that I had created and in fact I only made things
14 worse, worse for everyone. I am still struggling through
15 weekly therapy and church to understand why I made and
16 continued to make those decisions.

17 And through my own self-destructive behavior, I lost
18 the very thing that I was trying to protect, my career. I
19 embarrassed my family and friends, the office that I cared
20 about and the saddest thing was it ripped me from this cage
21 that I had built, this unbearable situation. I had to take a
22 long look at myself and what I had become and try to right the
23 wrongs that I have created.

24 Your Honor, whatever your sentence today, please
25 know that I understand the harm that I caused and I'll be

1 thinking about it for the rest of my life. I have been trying
2 and I will keep trying through the solace I find in church and
3 my work to support veterans and focus on helping others and
4 through weekly therapy, to continue this process, if allowed.

5 And I apologize to everyone who has been affected by
6 my actions. First, to the victims and their families, I
7 deeply regret my behavior. It is inexcusable. I violated
8 their rights and I was wrong. To the judges who signatures I
9 used, I'm sorry. I can't apologize enough. To the Kings
10 County DA's Office for causing any negativity to come to that
11 office. My work there was my life and I believed every day
12 going to work made the streets of Brooklyn safer.

13 To the citizens of Brooklyn, they deserved better
14 from me, your Honor. To my family who is here, I apologize for
15 the shame and embarrassment and had the press waiting outside
16 their house looking for me for days and yet they stood by me
17 and this incredible network of friends and family that I
18 really am so fortunate to have. To the Focus Forward people,
19 who I know are here today, they allowed me to be in their
20 tremendous program and to continue the growing process of
21 looking forward. To Angela Coyne and Reverend Susan Copley
22 and the War Veterans Council, which has always been one of my
23 passions to continue to support veterans, and she trusted in
24 me and that was incredible. She didn't know me before this.
25 It was truly remarkable. To Reverend Susan Copley, who is

1 also here, she let me attend Christ Church and all the good
2 they do.

3 Your Honor, I just want you to know this: I am so
4 humbly repentant for my actions, and I don't know if I deserve
5 a second chance, but I want you to know that I will never make
6 these terrible decisions again and I am truly sorry.

7 Thank you.

8 THE COURT: Thank you.

9 We'll now hear from the prosecution.

10 MR. POLEMENI: Thank you, your Honor.

11 One or two things to say. Judge, for nearly 18
12 months Ms. Lenich lied to and manipulated everyone around her
13 and manipulated the Kings County District Attorneys Office.
14 She was given an immense amount of power and authority and she
15 abused it repeatedly. Daily, she abused that power. She
16 could have stopped at any time. She didn't. She made a
17 conscious decision for 18 months to forge documents, to forge
18 judges' signatures, to listen in on private personal telephone
19 conversations, to read private personal text messages, for 18
20 months, your Honor.

21 She manipulated her colleagues, junior assistants,
22 who looked up to her. She was their supervisor. She lied to
23 them repeatedly. She lied to experienced, seasoned detectives
24 repeatedly. She manipulated them. And there is no doubt had
25 she not been caught she'd be doing it to this day. She

1 committed a very serious crime and there is no doubt, your
2 Honor, and the government doesn't dispute that she has done
3 very good things, publicly, professionally and personally, but
4 she was given an immense amount of power and she abused that
5 power and she abused it for her personal gain.

6 She knew what she was doing. It was not a mistake.
7 It was not an aberration, a one-time thing. She knew what she
8 was doing and she knew what she was doing was a crime because
9 of all people in this courtroom Ms. Lenich, whose job was to
10 supervise wiretap investigations, whose job had to make her
11 realize, and no doubt she did, the incredibly intrusive
12 mechanism of a wiretap. It is very effective for law
13 enforcement, but there's significant privacy interests at
14 risk, which require us, as federal prosecutors and state
15 prosecutors, to go to the highest levels of the department of
16 justice, as a federal prosecutor, and to the Kings County
17 District Attorneys Office, the highest levels there, to get
18 their approval, to say, you know what, this is worth it.

19 We then have to bring an application on the federal
20 level to your Honor or to any other judges, Title III Judges,
21 on the state level to Supreme Court Justices, and they have to
22 approve of that interception. And we have to establish then,
23 judge, it's important. We think that we need this
24 interception or these interceptions. We understand that we
25 have to minimize because of the privacy interests that are at

1 stake. We understand that we can only do this for 30 days
2 because of the privacy interests at stake.

3 No one knows that better than Ms. Lenich. And
4 instead she took her knowledge of how the Kings County
5 District Attorneys Office's wiretap investigations process
6 worked, she took her knowledge and she abused the system. She
7 manipulated individuals to get what she wanted. It was not a
8 mistake. It was not a one-off aberration. It was
9 intentional. She did it daily for 18 months.

10 Now, Mr. Fodeman points to two factors that you can
11 take some solace in. One being Ms. Lenich's actions did not
12 impact any pending investigations at the Brooklyn DA's Office.
13 The government doesn't know if that's true or not. It may
14 very well be the case. But the Kings County District
15 Attorneys Office had to review hundreds of cases that
16 Ms. Lenich worked on. A state court judge demanded that they
17 do so.

18 While perhaps it may not have resulted or impacted
19 any pending investigations, in the sense that there's no
20 evidence that was tainted or improperly obtained. That might
21 be the case. That's not really what matters. What matters is
22 the perception that everything is above board. What matters
23 is the public's perception, the court's perception that's
24 what's going on in the prosecutor's office and with the law
25 enforcement agencies that those prosecutors work with

1 everything is done above board.

2 And when someone like Ms. Lenich, who is not a line
3 assistant, judge, who hasn't been in the office for a couple
4 of years, but a supervisor in the office for -- she is there
5 nor fifteen years and supervises all, not just some, all of
6 the district attorneys offices's wiretap investigations.

7 That's a problem. And the district attorneys office will have
8 to overcome doubt for years. They will have to restore their
9 credibility that what they are doing is above board.

10 Mr. Fodeman also takes solace in the claim that
11 these recordings that Ms. Lenich intercepted were never
12 disseminated. That might be the case. While the government
13 has some of her computers and some of her cell phones, and
14 she turned some over as well, it's unclear whether there
15 exists other media out there. It's a possibility, judge. And
16 with all due respect to Mr. Fodeman, I'm not sure we should be
17 taking his client's word that there are none.

18 But even if there are none, again, that's not the
19 point. The point is that these recordings of personal,
20 private communications exist and I think one of the victims
21 very artfully told this court she wakes up every day fearful
22 that private personal communications of hers will be
23 disseminated, via the internet, on FaceBook, somewhere, some
24 time her private communications might be out for the world to
25 see. It could be instantaneous. A click of a button. That's

1 all it takes in this computer age.

2 Ms. Lenich committed a serious crime. She should be
3 punished for her crime. And this court should send a message
4 to people who, even if they are not in supervisory positions,
5 an attorney with all this authority, people who engage in this
6 conduct, particularly in this day and age, that you cannot
7 intercept communications. You cannot hold people whose
8 communications you have intercepted hostage. A strong message
9 has to be sent, your Honor, that this behavior cannot be
10 tolerated.

11 The government asks this court impose an
12 above-guideline sentence of 24 months, for those reasons and
13 for all the reasons we cited in our submission. Thank you,
14 your Honor.

15 THE COURT: Thank you, counsel. I'll hear from
16 probation.

17 MS. McKEOWN: Your Honor, the probation department
18 would rest on our sentencing recommendation.

19 THE COURT: Again, just so the record is clear, your
20 recommendation was?

21 MS. McKEOWN: Three years probation, to run
22 concurrently, a forty thousand dollar fine, due immediately
23 and payable within 90 days.

24 Special conditions of probation are as follows: The
25 defendant shall refrain from the practice of law; the

1 defendant shall perform 200 hours of community service, in a
2 manner and at a rate approved by the United States Probation
3 Department, any time she is not employed or actively
4 participating in an educational, vocational or employment
5 program and the defendant shall comply with the fine payment
6 schedule.

7 THE COURT: As I said before, I will let defense
8 counsel and the defendant respond to anything that they have
9 heard.

10 MR. FARRELL: Yes, your Honor, thank you. I hope
11 and intend to be brief.

12 THE COURT: Take as much time as you need, counsel.

13 MR. FARRELL: Tara said I can't believe she's here
14 as a criminal defendant. Your Honor, I can't believe it
15 either. This is almost Kafkaesque to me. I've known of
16 Ms. Lenich for a long time. We were both in the DA's office,
17 albeit in different eras. But I've known of her and of her
18 reputation. Had someone approached me say three years ago,
19 knowing that I am not adverse to a occasional friendly wager
20 and said, Gary, I bet you everything you have that in three
21 years on February 2, Tara Lenich is going to be before a
22 federal judge for sentencing. I would have said, I'll take
23 that bet. Even I can win this one. If that happened, I would
24 be here wearing a barrel I guess. But I would be here. I
25 really am somewhat shocked myself because it's a woman whose

1 reputation I know. I a denison of Ki ngs County state court,
2 your Honor, and as I said a former Assistant DA and I ki nd of
3 kept tabs on Tara through my dear fri end James Lee Burke, my
4 classmate, who was her supervisor and he woul d always ki nd of
5 tell me, Gary, I 'm real ly lucky I have some women prosecutors
6 who are dynami te. I think they col or coordinate the DA's
7 Office by the parts of Brookl yn, and Tara was i n the red zone
8 and my friend Jim woul d always say, he woul d affectionally
9 refer to them as the Ladie s of red, Tara, Kia Wright and
10 Christian Hoffman, who are here today to support thei r fri end.
11 He woul d always brag about them, what talented lawyers they
12 were. Tara was a very good trial lawyer. But she was an
13 exceptional i nvestigative lawyer.

14 And you read the letter from Marc Fi edner, a former
15 executive i n the DA's offi ce, who ran a very credi ble campai gn
16 to be DA of Ki ngs County. He told me when I first reached out
17 to him, he goes, Gary, I 'm happy, i t's my honor to write thi s
18 letter. She was singul arly the best the best Assistant
19 District Attorney I ever had the pleasure of training and
20 working wi th. Because she was a rock star. She didn' t wait
21 for cases to come, she went out and made the cases. And I say
22 thi s respectfully and sincerel y, Tara Lenich possessed the
23 work ethic of an Eastern Di strict Uni ted States Attorney and I
24 do mean that sincerel y.

25 There' s a runni ng joke i n the Lawyer' s Lounge here.

1 Hey, I got an e-mail from AUSA so and so at 4:00 in the
2 morning on Saturday and someone else will say I got one on
3 Sunday. Do these guys ever sleep? That's all said
4 respectfully for their work ethic that's renowned throughout
5 the city and that's the type of work ethic Tara Lenich
6 possess.

7 Respectfully, she also was involved in cases that
8 are like Eastern District cases. She was not prosecuting
9 people on the corner for selling two vials. She was making
10 big cases of drug traffickers and more importantly gun
11 traffickers. The biggest cases that have come out of that
12 office in the last seven years have been Tara Lenich driven
13 cases. She was fully dedicated, fully committed. We're not
14 talking about a nine to five, your Honor. She was all in,
15 all the time, working with confidential informants and, yes,
16 fabricating herself with eavesdropping laws and using them
17 to the advantage of law enforcement to take hundreds and
18 hundreds of guns off the street and kilos and kilos of cocaine
19 and heroin.

20 And I would take some issue with the government
21 saying well we're not sure if there are any tainted
22 investigations. Your Honor, respectfully, I'm pretty sure
23 elected District Attorney Eric Gonzalez has stated
24 unequivocally there is no evidence of taint or any
25 improprieties with any investigation that Tara Lenich was

1 involved in.

2 But all that is in the past, your Honor. She's here
3 today, as she pointed out, as a federal felon, disgraced,
4 disbarred, no career to go back to. Today was the last time
5 her voice will ever be heard in any courtroom and that's
6 saddens me. But that's on her. She stated, and my colleague
7 Moe Fodeman stated, she knew what she was doing. The
8 government's right, she intentionally violated people's right
9 to privacy and that's a right we cherish here in this great
10 country of ours and I will also take some -- I would
11 respectfully disagree that she did it for her enrichment, like
12 a stockbroker who trades and insides information. He does that
13 for his personal gain. I respectfully submit this was not
14 done for personal gain.

15 It's difficult for me to say as her lawyer what it
16 was done for. We know the results, heartbreak, career ruined.
17 Again, I'll rely on Dr. Welner's report, as my colleague did,
18 to give some insight, some insight. How do you explain the
19 unexplainable? I think he did a commendable, professional job
20 of offering insight to a desperate, desperate woman in a very
21 volatile situation.

22 And, judge, everyone is different. Mr. Fodeman is
23 right. Some people can come back from a jail sentence or any
24 sentence and have their career. A famous homemaker on TV
25 today telling us the greatest dip you can make for a superbowl

1 party. She was sentenced, came back and is right back on TV
2 again. An NFL football quarterback star can get involved in a
3 pit bull fighting ring and can come back and lead his team to
4 the playoffs. That's a great thing.

5 But there's no coming back for Tara Lenich, not back
6 to the courtrooms. That was her world for years and the
7 investigative wire rooms. Those days are over. She's got to
8 reinvent herself and to her credit she's on her way to do
9 that. She's taking on-line courses. She has a new passion,
10 not a new passion, she has always been an animal lover and dog
11 lover and she knows the need for these therapy dogs and she's
12 going to do that going forward.

13 I also draw attention to how did she comported
14 herself post-arrest here on pretrial supervision, going to the
15 Focus Forward Program, not just going, because maybe she had
16 to go, or we told her as her lawyers to go, she went. She
17 became a leader, like she always does, judge, wherever she
18 goes, back to high school you saw and college and through the
19 DA's office. That's how Tara is. And she didn't sit around
20 feeling sorry for herself and binge watching The Crown or
21 Stranger Things, good shows that they are. She was out there
22 helping veterans, helping people in the Christ Church.

23 And, judge, I don't know how much you know about
24 Westchester geography. I know South Tarrytown is not
25 Scarsdale. That's a diverse community. There are people

1 living on or below the poverty line. She is not folding linen
2 napkins for banquets. She's there passing out food and
3 clothing that is needed. She's helping kids that have DACA
4 issues.

5 She's doing what she can with Reverend Copley and
6 Angelia Coyne and they are here today with a third party, Ivy
7 Turk, from Project Liberation. Those are three great
8 organizations, three great things, that they all want a piece
9 of Tara in the best sense of that term. They want her to work
10 with them. And I submit that would be doing the community,
11 our community, a great -- it would be a great things if she
12 did that. Because she has the potential, your Honor, to help
13 people. She is has a life-long track record to prove it.
14 Many defendants, I submit, most defendants that come before
15 you and your colleagues in this building, they are not wired
16 for that. They are about themselves. That's why they are
17 here. They don't have the capacity to help the community in a
18 way that Tara Lenich does.

19 Even Focus Forward, not only did was a star there,
20 the Southern District reached out to borrow her to help a
21 woman they have who was sliding and Tara brought her back.
22 So, she has that going for her, your Honor. Were she to go to
23 prison I think it is important to note she would not be Tara
24 Lenich the bank clerk who embezzled money or Tara Lenich the
25 molly dealer. She would be Tara Lenich the former gang

1 prosecutor.

2 And I know you've read Joel Sickler's declaration
3 and his extensive experience in prison matters. She would be
4 hundreds and hundreds of miles away from friends and family
5 and word about who she is would absolutely get out and there
6 would be isolation threats or worse. So, that's a factor,
7 respectfully, that we would ask you to consider, your Honor.

8 I'm just about done. I would say this, judge: When
9 the prosecution noted about the victims' fears I would like to
10 do everything I can to try to assuage those fears. There's no
11 secret cloud, there are no secret files. She's not going to
12 do it. She never did it. She would never do it.

13 I would add, and I'm sure the court took note of
14 this, this was a victim whose statement was given to probation
15 by her renowned plaintiff's lawyer who has filed suit against
16 my client and who has amended that suit recently to include
17 the elected district attorney and other people. So take note
18 of that, your Honor. This was a victim that never cooperated
19 with the government, never once spoke to an FBI agent or
20 Assistant United States Attorney.

21 Judge, I'll never have a client like Tara Lenich
22 again. I'm confident of that. I'll never have someone who
23 has done so much for so many people and has touched so many
24 people in so many special ways. I will never again represent
25 someone I hope who is not just a client but who has become a

1 friend and I am proud to say that.

2 So let me end by asking you to follow the
3 recommendation of the probation department that is so
4 respected in this courthouse, as it should be, to impose a
5 nonincarceratory sentence as we suggest or as probation
6 suggests. I submit that would meet the ends of justice here,
7 would be sufficient to achieve the purpose of sentencing.
8 She's ready to work, judge. She's ready to continue the
9 community service she's always done. It has always been part
10 of her life. She's ready, willing and able to help and thank
11 you for your patience in hearing all of us.

12 THE COURT: Thank you. Anything else, sir?

13 MR. FODEMAN: Nothing.

14 THE COURT: Anything else, Ms. Lenich?

15 THE DEFENDANT: Nothing.

16 THE COURT: Does the prosecution wish to say
17 anything in response?

18 MR. POLEMENI: Just briefly.

19 I don't know where Mr. Farrell's point about the
20 victims in this case are coming from. I assume he's not he's
21 not attempting to blame the victims for Tara Lenich --

22 MR. FARRELL: That's not a very correct response --

23 THE COURT: Whoa there. Whoa. Whoa. Whoa.

24 I will listen to each side and I will let you have a
25 chance to respond.

1 MR. FARRELL: I know.

2 THE COURT: Don't do crossfire.

3 MR. FARRELL: Got it, sorry.

4 THE COURT: I'm old and slow. So we're going to go
5 old and slow. It's his turn and you'll have a chance to
6 respond and he will have a chance to respond. I'm appointed
7 for life, for good behavior, and I just too old and boring to
8 behave other than boring. Go right ahead.

9 MR. POLEMENI: Judge, Ms. Lenich obviously has a lot
10 of family and friends who are here, but she had that when she
11 committed these crimes and a lot of people who walk into this
12 courtroom don't have that, don't have the support, and it cuts
13 both ways, judge. People who have support, people who have
14 friends and family members behind them and don't commit
15 crimes, demonstrate that they often put their interests above
16 others and she had opportunities to resolve whatever was going
17 on professionally and personally. She could have done that.
18 She could have spoken to people. She could have quit her job
19 and gotten a new one. She had those options available to her.

20 She's an educated woman who comes from a respectable
21 family with a respectable education and career. She did not
22 choose to do any of those things. Instead, she chose to
23 repeatedly commit serious crimes.

24 And there is a sense of why did she do all this?
25 And it really doesn't seem to be clear. But I don't think

1 that helps Ms. Lenich. In fact, judge, I think just the
2 opposite. She had no good reason to commit these crimes, but
3 she did anyway. And going forward the court should
4 respectfully consider that, that she can't articulate a good
5 reason for why these did these things or at least she had
6 conflicting reasons, sometimes out of desperation or sometimes
7 I don't know why I did it.

8 But the court, respectfully, should consider that
9 Ms. Lenich repeatedly put herself above herself others,
10 repeatedly lied to people, repeatedly manipulated the process
11 that she was entrusted with and, again, for those reasons and
12 for the reasons we submitted in our letters we ask the court
13 to impose an above-guidelines sentence.

14 THE COURT: Now, I'll hear from defense counsel
15 again.

16 MR. FODEMAN: No, thank you, your Honor. And I
17 appreciate the opportunity.

18 THE COURT: Anything else?

19 MR. POLEMENI: No, your Honor. Thank you.

20 THE COURT: Anything else from Ms. Lenich?

21 THE DEFENDANT: No, your Honor.

22 THE COURT: Anything else from probation?

23 MS. McKEOWN: No, your Honor.

24 THE COURT: Thank you all.

25 Ms. Lenich, the court has this to say: Perfect

1 justice in this case would involve a power that neither I nor
2 any judge nor any human being, for that matter, has in his or
3 her hands. It is challenging and humbling to sit here as the
4 court and to pass sentence on a fellow human being.

5 This case impacts your family, many of whom who are
6 here today and the court appreciates their being here in
7 support of you. This case impacts the victims of your crime.
8 Ultimately, this case impacts you because this case is
9 ultimately about you, about what you did that brought us here
10 today, which is a day of sadness and a day of tragedy.

11 On March 23, 2017, the United States of America
12 indicted the defendant on two counts of illegal interception
13 of communications in violation of 18 United States Code
14 Section 2511(a). On April 3 of 2017, the defendant pled
15 guilty to the indictment; there is no written plea agreement
16 in this action, as has been noted. The court now sentences
17 the defendant and sets forth its reasons for the defendant's
18 sentence using the rubric of 18 United States Code Section
19 3553(a) factors, pursuant to the requirements of 18 United
20 States Code Section 3553(c)(2).

21 Let me begin with the legal standard. 18 United
22 States Code Section 3553 outlines the procedures for imposing
23 a sentence in a criminal case. If and when a district court
24 chooses to impose a sentence outside of the sentencing
25 guidelines range, the court shall state in open court the

1 reasons for the imposition of the particular sentence, and the
2 specific reasons for the imposition of a sentence different
3 from that described in the guidelines. 18 USC Section
4 3553(c)(2). The court must also state with specificity its
5 reasons for so departing in a statement of reasons form.

6 The sentencing court's written statement of reasons
7 shall be a simple, fact-specific statement explaining why the
8 guidelines range did not account for a specific factor or
9 factors under Section 3553(a). United States vs. Davis,
10 8-CR-332, 2010 Westlaw, 1221709, at star one, the Eastern
11 District decision dated March 29, 2010 by my brother Judge
12 Jack Weinstein. Section 3553(a) provides a set of seven
13 factors for this court to consider in determining what
14 sentence to impose on a criminal defendant. This court now
15 addresses each in turn.

16 First, we'll begin with the nature and circumstances
17 of the offense and the history and characteristics of the
18 defendant. The first Section 3553(a) factor requires this
19 court to evaluate the nature and circumstances of the offense
20 and the history and characteristics of the defendant. 18 USC
21 Section 3553(a)(1). The defendant, as was noted, was born on
22 May 2, 1975 in Worcester, Massachusetts, to William Lenich and
23 Frances Lenich (nee Sheerin). The defendant and her younger
24 brother were raised in an above-average income household,
25 where their basic needs were always met. The defendant

1 reported that her childhood was free of any abuse. Similarly,
2 the defendant had good physical health for the majority of her
3 life with a few notable exceptions. She has stated limited
4 mobility in her left knee, the result of surgery to repair an
5 injury she sustained while a passenger in a car that was
6 involved in a car accident during her third year of high
7 school in 1992. In 2000 and 2004 the defendant contracted
8 Lyme disease from which she has fully since recovered. And
9 her vehicle was rear ended in 2015 after which she suffered
10 back pain, muscle inflammation and swelling. The defendant
11 has never had any substance abuse, alcohol or gambling issues,
12 nor is there any evidence that she has had serious emotional
13 or health problems. There is, however, evidence to suggest
14 that the defendant maintains a close and loving relationships
15 with her parents and her brothers, all of whom are aware of
16 the defendant's crimes and are actively supporting her, as
17 we've seen here today, and that the defendant has a supportive
18 network of colleagues and friends, as we have also seen here
19 today.

20 The defendant had a distinguished academic and
21 professional history. She graduated from Wilton High School
22 in Wilton, Connecticut, in 1993; she obtained her
23 undergraduate degree from Colby College in Waterville, Maine,
24 in 1997; she graduated with a juris doctorate degree from
25 Emory School of Law in 2003. From July 5 of 2005 until

1 November 28 of 2016, the defendant worked as an Assistant
2 District Attorney for the Kings County District Attorneys
3 Office, the KCDA.

4 The KCDA is the government agency -- and its ADAs
5 are the government agents -- responsible for investigating
6 and prosecuting New York State and local criminal offenses in
7 Brooklyn, New York. In order to investigate and to prosecute
8 such criminal offenses, ADAs have the authority to, inter
9 alia, apply to judges for orders and warrants in order to
10 search electronic media stored by telecommunication providers,
11 or to intercept oral or electronic communications transmitted
12 to and from particular telephones. ADAs also gather evidence
13 by issuing subpoenas, in the name of sitting grand juries, for
14 stored records, including telecommunication providers, where
15 there is a good-faith basis to believe the information sought
16 by the subpoena provided is relevant to an ongoing
17 investigation. .

18 In her capacity as an ADA, the defendant played an
19 integral role in numerous successful prosecutions, including
20 of defendants possessing large amounts of guns and drugs.
21 Beginning in 2014, however, a series of events occurred which
22 the defendant asserts were the impetus for her subsequent
23 crimes. Specifically, a personal relationship between herself
24 and a married police detective with whom she worked came to a
25 volatile end, after which the detective reportedly subjected

1 defendant to harassment, including by sending threatening text
2 messages and engaging in unprofessional behavior related to
3 cases they were prosecuting together as has been adverted to
4 by the defendant today and in the addendum to the PSR at 1-2,
5 filed on ECF number 17. The defendant was single at the time
6 and has never been married. See paragraph 49 of the PSR. The
7 detective subsequently allegedly began a relationship with
8 another KCDA employee and although defendant purportedly
9 discussed with her boss what she considered to be continued
10 harassment from the two of them, the KCDA allegedly took no
11 action.

12 Between June of 2015 and November of 2016, the
13 defendant forged, by physically cutting copies and signatures
14 of various New York State Supreme Court Justices and taped
15 them onto documents, 24 purportedly judicially approved
16 orders, authorizing the KCDA and other law informant agencies
17 to intercept and record oral and electronic communications
18 transmitted to and from the cell phones of the said detective
19 and the said other KCDA employee, according to PSR paragraphs
20 9 through 13. The defendant submitted these fraudulent orders
21 to the service providers of the cell phones and
22 misappropriated the KCDA equipment and facilities to further
23 her scheme. The defendant also forged search warrants
24 authorizing the seizure of text messages transmitted to and
25 from one or more of the cell phones. To avoid detection of

1 these illegal activities, the defendant lied to her fellow
2 KCDA employees, telling them she was intercepting
3 communications as part of an extremely confidential law
4 enforcement investigations. Between June of 2015 and November
5 27 of 2016, the defendant also created and submitted several
6 grand jury subpoenas to telecommunication providers seeking
7 subscriber information for some of the telephone numbers that
8 communicated with the cell phones.

9 And to be specific, this defendant created and
10 submitted eight forged judicial orders to intercept the oral
11 and electronic communications to and from cellular telephone
12 one on the following dates: June 8 of 2015, July 6 of 2015,
13 August 3 of 2015, September 2, of 2015, October 2 of 2015,
14 October 30 of 2015, December 23 of 2015 and December 23 of
15 2015.

16 This defendant also created another series of
17 similarly forged judicial orders which she transmitted to the
18 telecommunications company referred to as provider two,
19 serving another cellular telephone line belonging to
20 victim's cellular telephone two. In total this defendant
21 created and submitted 17 forged judicial orders to intercept
22 the oral and electronic communications transmitted to and from
23 cellular telephone two on the following dates: August 20 of
24 2015, September 18 of 2015, October 16 of 2015, November 13 of
25 2015, December 11 of 2015, January 8 of 2016, February 5 of

1 2016, March 4 of 2016, April 1 of 2016, May 4 of 2016, June 3
2 of 2016, July 1 of 2016, August 3 of 2016, September 2 of
3 2016, September 30 of 2016, October 28 of 2016 and November 1
4 of 2016.

5 The defendant took the deliberate steps to prevent
6 her illegal eavesdropping scheme from discovery. The
7 defendant lied to other Kings County District Attorney
8 colleagues. Specifically, this defendant lied to them
9 stating she was conducting independent and highly confidential
10 law enforcement investigation. The defendant instructed her
11 colleagues not to listen to, not to read and not to review any
12 of the telecommunications transmitted to and from the cellular
13 telephone one or the cellular telephone two providers.

14 The defendant also created and submitted grand jury
15 subpoenas to those third-party telecommunication providers.
16 Those grand jury subpoenas called for the production to the
17 grand jury of subscriber information for some of the telephone
18 numbers that communicated to cellular telephone one and
19 cellular telephone two during this period that the defendant
20 was illegally eavesdropping on them.

21 This conduct led to the defendant's indictment by
22 the United States government. The defendant self-surrendered
23 to the Federal Bureau of Investigation Agents on March 27,
24 2017 and was released that same day on a five hundred thousand
25 dollar unsecured bond, according to the PSR at paragraph 16.

1 Now, we address the need for the sentence imposed.

2 The second 3553(a) factor instructs this court to
3 consider the need for the sentence imposed to reflect the
4 seriousness of the offense, to promote respect for the law and
5 to provide just punishment for the offense; to afford adequate
6 deterrence to criminal conduct; to protect the public from
7 further crimes of the defendant; and to provide the defendant
8 with needed educational or vocational training, medical care,
9 or other correctional treatment in the most effective manner,
10 under 18 USC Section 3553(a)(2).

11 The court's sentence punishes the defendant for
12 violating federal law and is crafted to deter her and others
13 from engaging in any similar criminal activity in the future.
14 The court takes into account the detrimental impact the
15 defendant's crimes had on public trust and law enforcement and
16 the criminal justice system, to the extent to which her crimes
17 invaded the victims' privacy, and the impact of the
18 defendant's crimes on the victims' reputations, careers, and
19 mental and emotional well-being. The court also considers the
20 defendant's loving and supportive family and network of
21 friends, her years of public service to the community during
22 her tenure as an ADA, the difficult circumstances unique to
23 the defendant's specific crime, the punishment she has already
24 suffered in the form of her loss of the ability to practice
25 law, her chosen career, and the volunteer work and educational

1 programing work she has done si nce pleadi ng gui lty to the
2 instant offenses.

3 Next I address the kind of sentences avail abl e. The
4 thi rd 3553(a) factor requi res thi s court to detail the ki nds
5 of sentences avail abl e for the defendant under 18 USC Secti on
6 3553(a)(3).

7 The defendant pled guilty to two count of i llegal
8 interception of communi cati ons, i n vi olati on of 18 USC Secti on
9 2511(1)(a), for which she faces a maximum term of impri sonment
10 of fi ve years per count, pursuant to 18 USC Secti on 2511(4),
11 whi ch may run ei ther consecuti vel y or concurrently, pursuant
12 to 18 USC Secti on 3584. If a term of impri sonment is imposed,
13 thi s court may also impose a term of supervised release of not
14 more than three years, pursuant to 18 USC Secti on 3583(b)(2),
15 where mul ti ple terms shall run concurrently, pursuant to 18
16 USC Secti on 3624(e). Because each offense is a Class D
17 fel ony, the defendant may also be sentenced to a term of
18 probati on of not less than one, nor more than fi ve years,
19 under 18 USC Secti on 3561(c)(1), wi th one of the fol lowi ng
20 conditi ons unl ess extraordi nary ci rcumstances exist: A fi ne,
21 resti tuti on, or communi ty servi ce, under to 18 USC Secti on
22 3563(a)(2). The defendant also faces a maximum fi ne of
23 \$250,000 per count, under 18 USC Secti on 3571(b), and payment
24 of the mandatory speci al assessment of one hundred dol lars per
25 count, whi ch I menti oned earl ier, pursuant to 18 USC Secti on

1 3013, which comes to \$200 in this case.

2 I next address the kinds of sentence and sentencing
3 range established for the defendant's offenses.

4 The fourth 3553(a) factor requires the court to
5 discuss the kinds of sentence and the sentencing range
6 established for the applicable category of the offense
7 committed by the applicable category of defendant as set forth
8 in the guidelines under 18 USC Section 3553(a)(4)(A).

9 Guidelines Section 2H3.1(a)(1) applies to violations
10 of 18 USC Section 2511(1)(a) and sets a base offense level of
11 nine for each count, pursuant to the U.S. Sentencing
12 Commission Guidelines, Section 2H3.1(a)(1), the November 2016
13 USSG Guidelines, et sequentia. Because the defendant abused a
14 position of public trust, and/or abused a special skill, in a
15 manner that significantly facilitated the commission and/or
16 concealment of the offense, the offense level is increased by
17 two levels, according to Section 3B1.3. Accordingly, the
18 adjusted offense level for each count is eleven.

19 For purposes of determining a guidelines sentencing
20 range where there are multiple distinct offenses, or groups,
21 the court must determine the total combined offense level by
22 taking the adjusted offense level applicable to the group with
23 the highest offense level, under Section 3D1.4. Because both
24 groups carry identical offense levels of eleven, the adjusted
25 offense level is eleven. That offense level must be increased

1 by an amount that is determined by the number of units, where
2 the count with the highest offense level is one unit and each
3 count that is equally serious or from one to four levels less
4 serious counts as an additional unit, pursuant to Section
5 3D1.4(a). Here, as was previously discussed, there are two
6 units because the defendant has pled guilty to two offenses
7 that are equally serious. Accordingly, as was stated before,
8 the guidelines direct a two-level increase, which results in
9 an offense level of thirteen. The guidelines permit a
10 two-level reduction, however, because the defendant has
11 clearly accepted responsibility for her crimes, as defined in
12 Section 3E1.1(a). Accordingly, the defendant's total combined
13 adjusted offense level is eleven. And, as we talked about
14 before, because the defendant has no prior arrests or
15 convictions, she has a criminal history score of zero and a
16 criminal history category of one.

17 Given a total offense level of eleven, and a
18 criminal history category one, the guidelines suggest a term
19 of imprisonment of between eight and fourteen months. As an
20 alternative, the court may impose a term of imprisonment of
21 one month, followed by a term of supervised release with a
22 special condition requiring seven months of community
23 confinement or home detention, Section 5C1.1(c)(2). As a
24 further alternative, this court may impose a sentence of
25 probation. That includes a condition, or combination of

1 conditions that substitute intermittent confinement, community
2 confinement, or home detention for imprisonment, according to
3 the schedule in USSG Section 5C1.1(c). The guidelines further
4 provide for a term of supervised release of one to three
5 years, under Section 5D1.2(a)(2), a fine between \$4,000 and
6 \$40,000, pursuant to Section 5E1.2(c)(3), and payment of the
7 costs of prosecution, pursuant to section 5E1.5.

8 The fifth 3553(a) factor addresses pertinent policy
9 statements of the sentencing commission.

10 The fifth 3553(a) factor, which requires the court
11 to evaluate any pertinent policy statements issued by the
12 sentencing commission, is in the view of this court not
13 applicable to this case.

14 The sixth 3553(a) factor requires the court to
15 consider the need to avoid unwarranted sentence disparities
16 among defendants with similar records who have been found
17 guilty of similar conduct.

18 As was stated earlier, the court has been thoroughly
19 advised by both prosecution and defense of the range of
20 sentences of many cases that have been considered and this
21 court holds that it is going to comply with that requirement.

22 Courts in this district, as well as other districts,
23 have imposed in some instances below-guidelines sentences for
24 crimes that similarly involve abuse of a position of trust. See
25 United States vs. Sanchez, 7-CR-246, Eastern District of New

1 York, September 15, 2008, by my sister Judge Ross, sentencing
2 the defendant who pled guilty to making false statements to
3 the department of justice regarding an ongoing personal
4 relationship with an inmate of a prison, where she was a
5 psychiatrist to probation. Also see judgment in United States
6 vs. Johnson, 16-CR-52, Southern District of Mississippi,
7 September 14 of 2017, sentencing an ADA who accepted bribes to
8 provide favorable treatment for defendants in cases brought by
9 his office to probation. The court is also mindful that the
10 vast majority of defendants nationwide who were sentenced
11 post-Booker and under USSG Section 2H3.1 received probationary
12 sentences. See the National Center of Institutions and
13 Alternatives, Federal Sentence Statistical Analysis Report,
14 ECF, 18-22 and 3. On the other hand, in a June 2016
15 sentencing in this district, the defendant, an attorney who
16 pled guilty to one count of forging the signature of a
17 bankruptcy judge, was sentenced by my brother Judge Spatt to
18 16 months in prison. That was in United States vs. Stark,
19 14-CR-572, EDNY, 2016. For the reasons stated in this
20 memorandum and order, and considering the other six 3553(a)
21 factors, the court's sentence avoids unwarranted sentence
22 disparities.

23 The final, and seventh 3553(a) factor, which
24 requires this court to consider is the need to provide
25 restitution to any victims of the offense, according to USC

1 Section 3553(a)(7), the court determines that this is not
2 applicable in this case.

3 As all sides have stated, this is a challenging
4 case, as are all cases involving criminal defendants, the
5 learned defense counsel, accomplished prosecution and
6 experienced probation service have disagreed on many elements
7 but you have all agreed on one thing, this case is a tragedy
8 and this court agrees with that fact. However, the
9 protagonist created this tragedy. The fatal flaw of the
10 protagonist led to this tragedy. The protagonist in this case
11 is the defendant. She has acknowledged that here today. The
12 jealous rage of an Othello led to the tragic death of
13 Desdemona. The vanity of a King Lear destroyed his kingdom
14 and led to the tragic death of Cordelia. The delay and
15 equivocation of a Hamlet led to the tragic death of Ophelia.
16 The evil actions of Macbeth led to the tragic death of King
17 Duncan and the demise of the Dusk family. The protagonist
18 driven by a fatal and tragic flaw causes the tragedy. True
19 tragedy does not end with that protagonist walking away from
20 the carnage which he or she created with the equivalent of
21 community service, or the self-sacrifice I suffered or
22 self-important deterrent to the pre-tragic state of life. In
23 the recent movie The Kingsmen when asked why he did not simply
24 let the creator of a truly tragic scene of destruction just
25 walk away unscathed, the hero of that film looked him in the

1 eye and shook his head and said, no. He said, This ain't that
2 kind of movie Bro.

3 Counsel, let me put it this way: This ain't that
4 kind of justice system. This justice system requires this
5 court to apply the rule of law without fear or favor, equal
6 justice under the law in a system defined by the rule of law,
7 not by the personal demons of the men and the women empowered
8 to enforce the rule of law. We are a government of laws and
9 not a government of men and women.

10 The prosecution argues lots of people come here who
11 don't have support, and they want you to take that into
12 account that you do have support. The double-edged sword
13 argument. Other people argue they don't have support and you
14 have to take that into account in imposing sentence, and the
15 3553(a) factors so state.

16 But everyone has a back story. We're here today
17 because of the actions taken. The background never justifies
18 crime, never justifies crime. It's taken into account, but we
19 are responsible for our actions, whatever our background.
20 That is what is said in this courtroom and in every courtroom
21 in this judicial district and across the country. For that
22 reason the defendant is hereby sentenced to twelve months of
23 incarceration on count one, twelve months of incarceration on
24 count two, to be served concurrently, at the same time, not
25 consecutively. Twenty-four months, way too much for this

1 crime. Time served, home confinement, way too little for this
2 crime, not because I expect you, Ms. Lenich, to somehow
3 magically get your law license back and wind up prosecuting
4 people again, but because every person in this courtroom I
5 suspect has at some point kind of wished to know what a love
6 interest or a love rival might be up to. We live in a world
7 where you don't have to hear it from me, you all know, privacy
8 is really important. The constitution protects it. People in
9 our country, in this district and in every district, need to
10 know that the human beings who are given all this power, the
11 prosecutors, the defense counsel, the judges, the police, are
12 not off on their own personal agendas. We are all human, but
13 we have to rein it in, whether we are from the hood of Bed
14 Stuy or the hood of Greenwich, we have to do it.

15 I have said this repeatedly to people who say you
16 have to understand. I do understand. I'm a boy born in Bed
17 Stuy, raised in the public housing projects of Harlem, have
18 four degrees from Harvard, spent 33 years practicing law on
19 Wall Street. I get it. I get it. I understand the
20 pressures. And I would be a liar if I said to you, oh boy, I
21 never wished I knew what this potential girlfriend or
22 boyfriend was up to, but you can't take your power in hand to
23 peak. Thirty-five thousand to forty thousand police officers,
24 prosecutors across the country, judges, can I sit in my
25 chambers and get a phone call from assistant attorney that

1 rises and says I just got a TC warrant, judge, Did you really
2 sign it? Because you are interested in what the person is up
3 to? Really? I'm going to have that conversation? Who am I
4 talking to?

5 You know how important this system is. You know
6 it's crucial. Everyone here knows it's crucial. Everyone
7 here knows that we are all human but we have to, whether we
8 are from the hood or from the other hood, be responsible for
9 our moral actions. You understand that, Ms. Lenich, and I'm
10 sure you said the equivalent to many people as a prosecutor.
11 I was consumed by personal concerns doesn't cut it. It
12 doesn't cut it. We are responsible for our actions. We are
13 informed by Freud but we are judged by Skinner. What we do,
14 not who we are, not what is in our heads, because we engaged
15 in behavior that is dangerous.

16 As far as the victim impact statement, there's
17 another courtroom, in another part of this building, where
18 that's going to be determined. I'm not determining that
19 today. I'm not commenting on that today.

20 I am adopting the probation pretrial sentence
21 recommendations in their entirety. I want to make that clear
22 that the punishment is twelve months on count one, twelve
23 months on count two of incarceration to be served
24 concurrently. I'm recommending to the Bureau of Prisons that
25 the prison be as close as possible to New York and I'll hear

1 from both sides in a minute. I just want to make that very
2 clear.

3 Now, I'll hear first from the prosecution and then
4 from defense counsel and then you can respond.

5 Anything else?

6 MR. POLEMENI: Judge, are you going to impose
7 supervised release?

8 THE COURT: No. This is a defendant who has great
9 support and I don't want her stumbling over some minor
10 infraction that gets her back here. When you complete your
11 service, ma'am, your family and your friends will be here and
12 they will be with you and they will be with you throughout.
13 So, no, we're not going to go down the supervised release.
14 Five days later, your tax returns. You have to deal with
15 somebody else, not me.

16 MR. POLEMENI: A monetary penalty?

17 THE COURT: No. Only the \$200, which I have to
18 impose \$100 per count. No other financial penalties.

19 MR. POLEMENI: May I ask the court to advise the
20 defendant of her right to appeal.

21 THE COURT: You certainly have a right to appeal
22 this sentence, absolutely.

23 MR. POLEMENI: Fourteen months from the execution of
24 court orders.

25 THE COURT: As you say.

1 MR. POLEMENI : Fourteen days.

2 THE COURT: I know what you said and I'm sure if you
3 want to extend it to fourteen months learned defense counsel
4 will let you do that. It might be jurisdictional and my
5 friends on the 17th floor we'll see what they will do on the
6 over side of the river.

7 Anything else?

8 MR. POLEMENI : No, your Honor.

9 THE COURT: Anything else from you?

10 MS. McKEOWN: No, your Honor.

11 THE COURT: Defense counsel .

12 MR. FODEMAN: Yes, judge, just a couple of
13 administrative matters.

14 THE COURT: Talk slowly. It's been a long day and
15 our intrepid court reporter has not had anyone spell him his
16 activity.

17 MR. FODEMAN: First, thank you, your Honor, for your
18 obvious consideration of this case. On behalf of Ms. Lenich
19 we appreciate it. We inundated you and your staff with a lot
20 of materials.

21 THE COURT: You didn't inundate us. All cases are
22 important. That is important case.

23 MR. FODEMAN: Thank you, your Honor.

24 With regard to the designation, I don't think I've
25 ever asked not to be close to home. But this is unique

1 situation where we have a former law enforcement officer. We
2 have engaged the assistance of someone who is familiar with
3 BOP procedure.

4 THE COURT: I'll rephrase my comment.

5 Whatever you think is the right place, I will
6 recommend it now. My recommending something to the BOP is
7 like showing up in the projects and asking for a pony when I
8 was about fourteen, my father said Bill, you're a good kid,
9 not as good as your brother Eric, but we live in the projects
10 on the fourth floor, you ain't getting a pony and I've never
11 gotten a pony. I will ask BOP whatever you suggest as the
12 designation or set of designations. For the obvious reasons,
13 maybe we don't want to have an extended discussion about what
14 that might be in this arena. So if you want to submit it
15 under seal for my consideration as a recommendation, that's
16 fine, too. But they will do what they do.

17 MR. FODEMAN: We'll do that, your Honor.

18 THE COURT: I think that's probably a little better.

19 MR. FODEMAN: Agreed. Thank you, your Honor.

20 The only other request -- this is another thing
21 that I think is probably a first for me -- I don't usually
22 ask for more time for my clients, generally not.

23 THE COURT: You want one more day?

24 MR. FODEMAN: That's where I was going.

25 THE COURT: Okay. You got it. Twelve months and

1 one day.

2 MR. FODEMAN: Thank you, your Honor. Much
3 appreciated.

4 THE COURT: To paraphrase the song Les Mis, One Day
5 More. I get it.

6 MR. FODEMAN: Thank you, your Honor, much
7 appreciated.

8 THE COURT: Anything else?

9 MR. FODEMAN: No, your Honor. Thank you.

10 MR. POLEMENI : A surrender date.

11 MR. FODEMAN: Yes.

12 THE COURT: What do you recommend and what do you
13 recommend?

14 MR. POLEMENI : 30 days.

15 THE COURT: Why don't we pick a date certain that
16 is exact.

17 MR. FODEMAN: I have some things scheduled, I know
18 that.

19 THE COURT: That's why I said recommend a date
20 certain. Take a look at your calendar. Like I said, I'll be
21 here for a while. Take a look at your calendar.

22 MR. FODEMAN: Does March 14 work?

23 THE COURT: Does that work for you?

24 MR. POLEMENI : No objection.

25 THE COURT: Everyone. March 14 it shall be at the

1 appropriate place and the appropriate time. You folks work
2 that out.

3 MR. FODEMAN: Thank you, your Honor.

4 THE COURT: Anything else?

5 MR. FODEMAN: No. Again, thank you.

6 THE COURT: Thank you. We are adjourned.

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